IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL NO.1024 OF 2005
IN
NOTICE OF MOTION NO.2172 OF 2004
IN
SUIT NO.2189 OF 2004

Sadruddin Khimji Bilawala .. Appellant

v/s.

Amirali Karmali Pradhan & ors. .. Respondents

Mr.D.R.Zaiwala, Senior Counsel with Mr.Hemang Raithatta i/by M/s.RMG Law & Associates for the appellant.

Mr.S.A.Sawant i/by M/s.Sawant & Associates for the respondent No.1.

CORAM : R.M.LODHA AND
D.G.KARNIK, JJ.

DATED : 29th November, 2005

P.C.

We heard Mr.D.R.Zaiwala, the learned Senior Counsel for the appellant.

2. The appellant is the original plaintiff. His grievance is that the defendant No.1 ought to have been asked to pay royalty being agent of the Court Receiver in respect of the subject flat. It is not in dispute that the parties agreed for the appointment of Court Receiver in respect of the subject flat and they also agreed that the defendant No.1 be appointed as an agent of the Court Receiver.

3. We do not intend to go into the merits of the diverse issues raised by the appellant as these issues would be decided in the suit but suffice it to say that in the facts and circumstances of the

case if the learned motion Judge permitted the defendant No.1 to be an agent of the Court Receiver without royalty, the said order cannot be faulted.

4. Needless to say that the observations made in the impugned order are only tentative and shall have no bearing in the decision of the suit.

5. Looking to the controversy involved in the suit, we are of the view that it would be in the fitness of of things, if the suit No.2189 of 2004 is heard and decided at an early date. Liberty is granted to the appellant to apply to the learned trial Judge for fixing the date of hearing of the suit.

6. With the aforesaid observations, appeal is dismissed in limine.

(R.M.LODHA, J.)

(D.G.KARNIK, J.)